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National Republican Senatorial Committee

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SENATOR PHIL GRAMM
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EXECUTIVE DIRECTOR

February 2, 1993

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Comment On
AOR 1993-02

Re: Advisory Opinion Request 1993-02

Dear Mr. Noble:

This letter is submitted on behalf of the National Republican Senatorial Committee (NRSC) as a comment to Advisory Opinion Request (AOR) 1993-02 submitted by the Democratic Senatorial Campaign Committee (DSCC).

The DSCC seeks confirmation that there is only a single spending limit under 2 U.S.C. 441a(d) with regard to the upcoming special election in Texas. As explained by the DSCC, "[c]andidates from all parties, including any independents, will compete in this special election. Under Texas law, if no candidate receives a majority of votes, a run-off will occur to determine who will hold the seat until the next regularly scheduled election in 1994." AOR 1993-02, p. 1.

The issue in Advisory Opinion 1983-16 was not whether there was one or more section 441a(d) expenditure limits in connection with the California election, but whether there was a section 441a(d) limit at all. The Commission determined in that opinion that there was in fact a section 441a(d) limit because the special election qualified as a general election. Advisory Opinion 1983-16, Fed. Election Camp. Fin. Guide (CCH) para. 5717 (1983). The Commission then went on to address the effect of a possible run-off election recognizing that it was doing so in dicta. Under the circumstances of the California law, the Commission determined that the run-off election would not constitute "a separate or additional general election," *id.*, and thus found that a single coordinated expenditure limit was applicable.

The NRSC agrees with the DSCC that Advisory Opinion 1983-16 "did not concern a run-off following an inconclusive general election as occurred in Georgia this year. Rather, it addressed the circumstances of a special election, like the one pending in Texas, which under state law led to a run-off if no majority winner emerged from the first round." AOR 1993-02, pp. 2-3.

Sincerely,


Jay Velasquez
Legal Counsel

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PAID FOR AND AUTHORIZED BY THE NATIONAL REPUBLICAN SENATORIAL COMMITTEE.